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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,398	10/07/2003	Robert G. Hockaday	ERD	5473

7590 10/28/2004

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EXAMINER

MAI, HUY KIM

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,398

Applicant(s)

HOCKADAY ET AL.

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-53 is/are allowed.
- 6) ☐ Claim(s) 1,3-7,10-13 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 2,8,9,14,15 and 21-48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement filed on Jan. 15, 2004 is acknowledged.

Oath/Declaration

2. The declaration filed on Jan. 8, 2004 is acceptable.

Claim Objections

3. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

In this case claim 16 does not refer to a preceding claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 7,10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases "the electrostatic filter" (claim 7, line 1) and "the filters" (claim 10, lines 1-2) have no antecedent basis.

Claim Rejections - 35 USC § 102

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1,3-6,16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Angermann et al (4,689,838).

The limitations in claims 1,3 are shown in Angermann et al's Figs. 1-2, column 2, lines 34-46, Angermann et al discloses an eyewear device comprising a frame 22, lenses 11 on the frame 12, and a filter 21 disposed between the lenses 11 and a user's face for filtering air in an air volume in the eyewear.

Regarding claim 4, Angermann et al discloses the filter 21 comprising a porous foams.

Regarding claims 5,6, Angermann et al discloses the device including a channel 18.

Regarding claim 17,16,18-20, Angermann et al discloses the eyewear device 10 further comprising a module 15 for filter 21 wherein the module is removably disposed on the frame 12.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7,10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angermann et al in view of Hockaday et al (6,772,448).

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Regarding claims 10-13, Angermann et al discloses the claimed invention as discussed above, except for the channels instead of baffles as claimed. Hockaday et al discloses a non-fogging eyewear comprising a frame having ventilation channel including baffles for the purposes of removing moisture and keep the eyewear from fogging. Since Angermann et al and Hockaday et al are both from the same filed of endeavor, the purpose disclosed by Hockaday et al would have been recognized in the pertinent art of Angermann et al. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the ventilation channel in the Angermann et al's eyewear in light of Hockaday et al's teaching for the purpose of removing moisture and keep the eyewear from fogging as disclosed by Hockaday et al.

Regarding claim 7, although Angermann et al does not define his baffles, molded parts and honeycombs do a function as an electrostatic filter as claimed by the applicant, his baffles, molded parts and honeycombs inherently perform a function as an electrostatic filter as the applicant does because the same structure should perform the same function.

Allowable Subject Matter

10. Claims 49-53 allowed.
11. Claims 2,,21,22,34,47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. Claims 8,9,14,15,23-33,35-46,48 are objected to as being dependent upon the above objected claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.



Huy Mai
Primary Examiner
Art Unit 2873

HKM/
October 26, 2004